

DOCKETED

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November 20, 2020

By U.S. Mail & E-Mail: lisa.worrall@energy.ca.gov

Lisa Worrall
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California Energy Commission
1516 9th Street
Sacramento, CA 95814

Re: Response of Oak Grove School District to Notice of Preparation for
Great Oaks South Backup Generating Facility and Great Oaks South Data Center

Dear Ms. Worrall:

This office represents the Oak Grove School District (“District”) with regard to the above referenced matter. The District appreciates the opportunity to provide comments and input regarding the Notice of Preparation (“NOP”) of an Environmental Impact Report (“EIR”) for the Great Oaks South Backup Generating Facility and Great Oaks South Data Center (collectively, the “Project”).

Per the Project’s NOP, the Project, portions of which have previously been analyzed by the City of San Jose (“City”) in 2016, would consist of 36 3.25-MW diesel-fired generators in six generation yards that would each be separately electrically interconnected to three 182,350 square foot data center buildings. Additionally, the Project would include three life safety diesel fired generators, each capable of generating 0.50 MW. The Project would have a total generating capacity of up to 99.0 MW. The Project Applicant SV1, LLC, has submitted an application to the California Energy Commission (“CEC”), seeking an exemption from the CEC’s jurisdiction. Per the NOP, the CEC can grant an exemption if it finds that the proposed facility would not create a substantial adverse impact on the environment or energy resources.

The District is particularly concerned about this Project because it would involve the siting of a significant, fossil-fuel burning power plant a few hundred feet away from the District’s administrative office located at 6578 Santa Teresa Boulevard, and also in close proximity to two District schools: Santa Teresa Elementary School (6200 Encinal Drive), and the Bernal Intermediate School (6610 San Ignacio Avenue). For these reasons, the District believes that the Project may pose numerous significant environmental impacts on the District, including the District’s staff and students, and the District’s ability to provide its educational program. **Through this letter, the District requests that all direct and indirect impacts related to the Project’s proximity to the District’s schools and administrative office be thoroughly reviewed, analyzed, and mitigated in the forthcoming Draft EIR.**

Limited Liability Partnership

It is also worth noting that the District and other property owners in the neighborhood are considering options for implementing potential mixed use development in the area. The District believes that such development would complement the residential uses of the Project's neighborhood, would help address the region's desperate housing crisis, and would help advance economic development, all of which would benefit the public and the District. The proposed diesel power plant, on the other hand, would conflict with and potentially render infeasible the District's conceptual plans, to the detriment of the community. As noted in numerous other comment letters submitted on this Project, the diesel generators would also be incompatible with the State's current goals of reducing carbon emissions, including those goals established by Senate Bill 32 and Assembly Bill 197. On these grounds, the District generally opposes the Project as currently configured.

A. Environmental Setting

One of CEQA's basic purposes is to inform government decision-makers and the public about the potential significant environmental effects of proposed projects and to disclose to the public the reasons for approval of a project that may have significant environmental effects. (CEQA Guidelines § 15002(a)(1) and (a)(4).) In line with this goal, the preparer of an EIR must make a genuine effort to obtain and disseminate information necessary to the understanding of impacts of project implementation. (See, CEQA Guidelines § 15151; *Sierra Club v. State Board of Forestry* (1994) 7 Cal.4th 1215, 1236.)

An EIR must describe existing environmental conditions in the vicinity of the proposed project from both a local and regional perspective, which is referred to as the "environmental setting." (CEQA Guidelines § 15125.) This description of existing environmental conditions serves as the "baseline" for measuring the qualitative and quantitative changes to the environment that will result from the project and for determining whether those environmental effects are significant. (*Id.*; see also, CEQA Guidelines § 15126.2(a); *Neighbors for Smart Rail v. Exposition Metro Line Constr. Auth.* (2013) 57 C4th 439, 447.)

The brief discussion of potential environmental impacts in the NOP prepared for the Project makes no mention of the Project's proximity to the District administrative office frequented by District staff and students on a daily basis, as well as two District schools. Rather, the NOP labels all of the buildings to the west of the Project site as "Industrial." This characterization is misleading. District facilities, all of which are occupied by District staff and students on a daily basis, are a critical part of the Project location's environmental setting, and should be considered throughout the Draft EIR impact categories.

B. Air Quality

The Bay Area Air Quality Management District's (BAAQMD) CEQA Guidelines (May 2017) impose numerous limitations on the exposure of "sensitive receptors," such as children and schools, to odors, toxics, and pollutants. As stated in the "Air Quality Assessment" completed for the Equinix Data Center project in June 2016, high particulate matter levels (including from diesel) aggravate respiratory and cardiovascular diseases, reduce lung function, increase mortality (e.g., lung cancer), and result in reduced lung function growth in children.

It is anticipated that the Project will severely impact both staff and students at the District's facilities, including at the District's administrative office, due to construction and operation of the Project. As noted in the NOP, the Project will generate diesel particulate matter emissions and emissions of ozone precursors (nitrogen oxides [NOx] and reactive organic gases [ROG]). The San Francisco Bay Area Air Basin is already in non-attainment for ozone and particulate matter (PM) ambient air quality standards. Further, the Project neighborhood in particular is already impacted by unhealthy air quality, especially during the summertime when the diesel generators would be used.¹ This unhealthy air quality is or will likely be exacerbated by other diesel generating projects recently approved in the area and Santa Clara County, including the China Mobile Data Center Project.

It is anticipated that the Project will serve to further degrade air quality, to the detriment of District staff and students traveling to and from the nearby facilities. In light of the above, the District requests that the Draft EIR analyze, at a minimum, the following:

- 1. Identify and assess the direct and indirect air quality impacts of the Project on sensitive receptors, including students and staff attending the District's Santa Teresa Elementary School and Bernal Intermediate School, and students/staff traveling to and from the District's administrative office.**
- 2. Identify and assess cumulative air quality impacts on schools and the community in general resulting from the proposed Project.**

C. Noise

It is expected that noise from construction and operation of the Project, and specifically from running the 36 diesel powered generators, will cause impacts on the District's educational programs at its nearby schools. The Draft EIR should analyze all of the various ways in which noise may impact schools and other sensitive receptors, including by accomplishing the following:

- 3. Identify any noise sources and volumes which may affect school facilities, classrooms, and outdoor school areas.**

D. Transportation

Any environmental analysis related to the proposed Project must address potential effects related to traffic, noise, air quality, and any other issues affecting schools. (Pub. Resources Code, §§ 21000, *et seq.*; Cal. Code Regs., tit. 14, §§ 15000, *et seq.*; *Chawanakee Unified School District v. County of Madera, et al.*, (2011) 196 Cal.App.4th 1016.) Additionally, specifically related to traffic, there must be an analysis of safety issues related to traffic impacts, such as reduced pedestrian safety, particularly as to students walking or bicycling to and from the District's facilities; potentially reduced response times for emergency services and first responders traveling to these facilities; and increased potential for accidents due to gridlock during school

¹ According to the State of the Air Report by the American Lung Association, San Jose ranked 3rd for worst 24-hour particle pollution out of 216 U.S. metropolitan areas and 5th for worst annual particle pollution out of 204 U.S. metropolitan areas. The Report can be accessed here: <https://www.stateoftheair.org/assets/SOTA-2020.pdf>

drop-off and pick up hours. (See, Journal of Planning Education and Research, “Planning for Safe Schools: Impacts of School Siting and Surrounding Environments on Traffic Safety,” November 2015, Chia-Yuan Yu and Xuemei Zhu, pg. 8 [Study of traffic accidents near Austin, Texas schools found that “[a] higher percentage of commercial uses was associated with more motorist and pedestrian crashes” around schools].)

The District has concerns about the traffic, transportation, and circulation impacts that the Project may have on the District, including the District’s staff, parents, and students that frequent the District’s administrative office, Santa Teresa Elementary School, and Bernal Intermediate School. Notably, the proposed Project will be surrounded by Via Del Oro, Great Oaks Boulevard, and San Igancio Avenue. All of these roads are regularly traveled by District staff and families in order to access the above District facilities. The District expects that construction and operation of the Project will attract hundreds of new employees and daily commuters into the area. The additional traffic generated by the Project may clog these critical roads, which will present new and exacerbate existing safety impacts related to students and staff traveling to and from District facilities, including those students and staff utilizing alternative modes of transportation. These impacts may, in turn, inhibit the District’s abilities to operate its educational programs at Bernal Intermediate and Santa Teresa Elementary.

The NOP notes that it will analyze the Project’s transportation impacts using the metric of vehicle miles traveled (“VMT”). This is generally consistent with the State Office of Planning and Research’s new CEQA Guidelines which now encourage the use of VMT, rather than level-of-service (LOS), to analyze project impacts on traffic. (14 Cal. Code Regs. § 15064.3.) However, local agencies may still consider impacts on traffic congestion at intersections where appropriate, and must do so where such traffic congestion will cause significant impacts on air quality, noise, and safety issues caused by traffic. (Pub. Res. Code § 21099(b)(3).) As increases in traffic caused by construction and operation of the Project may pose safety impacts to students traveling to and from school and the District office, the District requests that the Draft EIR also analyze traffic impacts using the LOS metric.

The foregoing categories of information are critical for determining the extent of transportation/circulation impacts on the District:

- 4. Describe the existing and the anticipated vehicular traffic and student pedestrian movement patterns to and from school sites, including movement patterns to and from Santa Teresa Elementary School and Bernal Intermediate School, and including consideration of bus routes.**
- 5. Assess the impact(s) of increased vehicular movement and volumes caused by the Project, including but not limited to potential conflicts with school pedestrian movement, school transportation, and busing activities to and from Santa Teresa Elementary School and Bernal Intermediate School.**
- 6. Estimate travel demand and trip generation, trip distribution, and trip assignment by including consideration of school sites and home-to-school travel.**

- 7. Assess cumulative impacts on schools and the community in general resulting from increased vehicular movement and volumes expected from additional development already approved or pending in the City and neighborhood.**
- 8. Assess the impacts on the routes and safety of students traveling to school and the District office by vehicle, bus, walking, and bicycles.**

E. Public Services

The proposed Project would have a significant impact on schools if it would “result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives” for the provision of school services. (CEQA Guidelines, Appendix G.)

As discussed above, the District anticipates that certain impacts caused by the Project, including impacts related to air quality, noise, and student transportation, may impact the District’s ability to provide its public service. The Draft EIR should provide sufficient information for the District and public to make this assessment, including information needed to determine whether the Project’s impacts will result in the need for new school facilities, whether the Project’s impacts will result in the need to physically alter the District’s existing facilities, and generally whether the Project’s impacts will affect the District’s ability to continue providing its public service in accordance with its established performance objectives. For these reasons, the District requests that the Draft EIR include analysis of the following categories of information:

- 9. Describe existing and future conditions within the District, on a school-by-school basis, including size, location and capacity of facilities.**
- 10. Describe the adequacy of both existing infrastructure serving schools and anticipated infrastructure needed to serve future schools.**
- 11. Describe the District’s past and present enrollment trends.**
- 12. Describe the District’s current uses of its facilities.**
- 13. Describe projected teacher/staffing requirements based on anticipated population growth and existing State and District policies.**
- 14. Describe any impacts on curriculum as a result of anticipated population growth.**
- 15. Identify the cost of providing capital facilities to properly accommodate students on a per-student basis, by the District (including land costs).**
- 16. Identify the expected shortfall or excess between the estimated development fees to be generated by the Project and the cost for provision of capital facilities.**

- 17. Assess the District’s present and projected capital facility, operations, maintenance, and personnel costs.**
- 18. Assess financing and funding sources available to the District, including but not limited to those mitigation measures set forth in Section 65996 of the Government Code.**
- 19. Identify any expected fiscal impacts on the District, including an assessment of projected cost of land acquisition, school construction, and other facilities needs.**
- 20. Assess cumulative impacts on schools resulting from additional development already approved, pending, or anticipated.**
- 21. Identify how the District will accommodate students from the Project who are not accommodated at current District schools, including the effects on the overall operation and administration of the District, the students and employees.**

F. Piecemeal Review

CEQA forbids “piecemeal” review of the significant impacts of a project. (*Aptos Council v. County of Santa Cruz* (2017) 10 Cal.App.5th 266, 277-278.) “This standard is consistent with the principle that ‘environmental considerations do not become submerged by chopping a large project into many little ones—each with a minimal potential impact on the environment—which cumulatively may have disastrous consequences.’” (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 396.)

We understand that portions of this Project, including the construction of three data centers and a substation, were previously subject to review under CEQA in 2016 (the “Equinix Data Centers Project”). Through this comment, we request that the Draft EIR prepared for the Project analyze the proposed Project as a whole, rather than streamlining its review in reliance upon the environmental analysis prepared for the Equinix Data Centers Project. Only by analyzing the Project as a whole will the public be able properly to assess the Project’s impacts on the environment.

Conclusion

The needs of the District must be appropriately considered in the environmental review process for all proposed new development that will impact the District, such as the Project under consideration. We request that all notices and copies of documentation with regard to this Project be mailed both to the District directly, and also to our attention as follows:

Laura Phan, Assistant Superintendent, Business Services
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6578 Santa Teresa Blvd.
San Jose, CA 95119

Lisa Worrall
November 20, 2020
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Please feel free to contact me directly if we can be of any assistance in reviewing the above issues. Thank you.

Sincerely,

LOZANO SMITH



Kelly M. Rem

cc: Laura Phan, Oak Grove School District, Assistant Superintendent of Business Services